

TOWN OF EMMITSBURG

300A South Seton Avenue
Emmitsburg, Maryland 21727
301-600-6300 fax 301-600-6313

Mayor
Donald N. Briggs
Town Manager
David Haller
Town Clerk
Cathy Willets

Board of Commissioners
Timothy O'Donnell, President
Clifford L. Sweeney
Glenn Blanchard
Jennifer Mellor
Joseph Ritz III

TOWN MEETING AGENDA JANUARY 20, 2016

I. CALL MEETING TO ORDER (7:30PM)

A. PLEDGE OF ALLEGIANCE TO THE FLAG

B. NEXT MEETINGS:

*Planning Commission, **January 25** @ 7:30pm*

*Town Meeting, **February 1** @ 7:30 pm*

*Parks Committee, **February 16** @ 7:30pm*

C. APPROVE MINUTES FROM **JANUARY 4, 2016 TOWN MEETING**

D. POLICE REPORT

E. TOWN MANAGER'S REPORT

F. TOWN PLANNER'S REPORT

G. COMMISSIONER COMMENTS

H. MAYOR'S COMMENTS

I. PUBLIC COMMENTS

J. ADMINISTRATIVE BUSINESS (see attached)

K. CONSENT AGENDA

II. AGENDA ITEMS:

- 1. For consideration and possible final approval – Nuisance Ordinance*
- 2. Meetings Policy related to the number of monthly Town Council meetings*

III.SET AGENDA ITEMS FOR FEBRUARY 1, 2016 TOWN MEETING

IV. SIGN APPROVED TEXT AMENDMENTS AND/OR RESOLUTIONS

ITEM C

APPROVE MINUTES FROM JANUARY 4, 2016 TOWN MEETING

**MINUTES
TOWN MEETING
January 4, 2016
Emmitsburg Town Office**

Present: Mayor Donald Briggs; Commissioners Clifford Sweeney, Joseph Ritz III, Glenn Blanchard and Tim O'Donnell, President.
Staff present were Sue Cipperly, Town Planner; Cole Tabler, Town Accountant; Cathy Willets, Town Clerk; and Dave Haller, Town Manager.

Absent: Commissioner Jennifer Mellor with prior notice

I. Call to Order

Commissioner Tim O'Donnell, President of the Board of Commissioners, called the January 4, 2016 Town Meeting to order at 7:30 p.m. Pledge of Allegiance was recited.

Approval of Minutes

The Minutes of the December 8, 2015 Town Meeting were approved as presented/corrected. Motion by Commissioner Ritz III second by Commissioner Sweeney.

Vote 4 to 0 in favor Commissioner Mellor absent.

Commissioner Comments

Commissioner(s) cited attendances, recognitions and announcements. Commissioner Ritz III thanked the Mayor, volunteers and Red Cross for distributing the new smoke detectors with the lithium batteries. Commissioner Blanchard mentioned the upcoming Vigilant Hose Annual banquet and encouraged all to attend to recognize their service to the Community. Commissioner O'Donnell congratulated Eagle Scout candidate Paul Slotwinski for being recognized by the Frederick News Post as an All County Cross County runner.

Mayor's Comments

Mayor Briggs stated he attended the 2015 award ceremony, Eagle Court of Honor Program, Troop 727 on December 26th. Mayor Briggs advised Paul Slotwinski, Keegan X. Wright, Andrew Neibecker, Brendan P. Isaacson, and Stephen M. Lowe all received their Eagle Scout designation. He also noted that the Town was awarded its 4th Community Legacy grant for \$50,000. This should take us close to \$400,000 in investment downtown. Mayor Briggs also mentioned that Emmitsburg was named as one of the Ten Most Beautiful and Charming small towns in Maryland by Onlyinyourstate.com.

Administrative Business - Commissioner O'Donnell asked if there was any follow-up on the drive through of Pembroke. Mr. Haller advised a drive-through has been completed but staff has not completed their review.

Consent Agenda - none

Reports:

Treasurer's Report – Commissioner Blanchard reviewed the cash activity report as of December 21, 2015.

Planning Commission Report - no report given.

II. Agenda Items

Budget Transfers – Mr. Haller advised the Board that in the past staff waited until the end of the year to make all the budget transfers. He stated the auditors did not like or recommend that procedure. Mr. Haller and Mr. Tabler have worked together to bundle them and bring to the Board as needed. Mr. Haller advised that this is simply moving a designated amount of money from one line item to another. It does not mean the budget is not balanced but keeps it more organized. Mr. Tabler explained the transfers will go to line items where expenses were incurred this fiscal year, i.e. in Dept. 10 Legislative \$16,815.00 was spent on updating the video broadcast equipment for the Town Meetings. This was an unexpected expense so a budget transfer is needed to bring that amount to 0. Mr. Tabler reviewed the transfers that were needed, in addition to the \$16,815 in legislative: \$10,796 Dept. 15 Buildings & Activity 333 Solar Field Project; \$5,020 Dept. 60 Parks & Activity 352 Park/Rec Equipment Upgrades; \$3,162 Dept. 60 Parks & Activity 391 Trail Walk Comm Park; and \$14,207 Dept. 60 Parks & Activity 999 General. Mr. Tabler advised that a \$50,000 transfer will be needed from the following line items where we have excess: \$15,000 from Dept 30 Streets & Activity 374 LED upgrade; \$11,000 from Dept. 30 Streets & Activity 383 E. Lincoln Ave. reserve; and \$24,000 from Dept. 30 Streets & Activity 999 General.

Commissioner O'Donnell reviewed the following line items: LED Upgrade, E. Lincoln Ave., Park and Rec Equipment Upgrade, Trail Walk Comm Park, as well as the General Fund in Dept. 30 and Dept. 60.

Commissioner Ritz III asked about the need for a \$50,000 transfer when the requested/needed amount is only \$47,112. Mr. Tabler explained that under the General Fund in Dept. 60 (999) there was an extra amount added of \$2,888 to bring the transfer to total \$50,000. He advised it makes the accounting work a little cleaner. Commissioner Ritz III inquired as to the Solar Project expenses. Mr. Haller advised that most of the expense was incurred pre-construction, such as site work.

Motion: To approve the \$50,000 budget transfers as presented in Item 1.
Motion by Commissioner Sweeney second by Commissioner Ritz III

Vote: 4-0 in favor Commissioner Mellor absent

Discussion of how many Town Council meetings are held yearly

Mayor Briggs reviewed the Charter which states that Town Council is required to have one meeting a month. He stated that it costs approx. \$300-\$400 per meeting to pay staff and travel. Mayor Briggs stated in 2003 it changed to two per month. Mayor Briggs advised there are currently 22 meetings per year and it may be time to reduce the number of meetings based on the number of agenda items currently being proposed. Mr. Haller advised per code two Commissioners or the Mayor can call an additional meeting at any time. Commissioner Blanchard suggested reducing the meetings to 18 a year. Commissioner O'Donnell was not opposed to a reduction as long as the Council meets their goals by providing accessibility of "ourselves" to the Town through a formal setting, providing transparency of the process through which the Town moves forwards and acts, and we have accountability and are the stewards to what Town Staff does. Commissioner Sweeney was not opposed to reducing the meetings. Commissioner Ritz III's only concern

TOWN AGENDA

January 20, 2016

would be around budget time. Mr. Haller advised it would be beneficial to keep the extra meetings the third Monday of the month as historically done. There was unanimous consent from the Board to direct staff to develop a meetings policy to incorporate one meeting a month and as necessary two meetings a month (additional meetings can be added as needed). The second meeting will remain the third Monday of month.

Vote to change Open Space zone title to Institutional zone

Ms. Cipperly advised when the Town adopted the 2015 Comprehensive Plan there was a change to the land use designation for the area that includes the school, town office, Daughter of Charity property, Seton School and anything with institutional uses. Those areas were previously called Open Space Use because it also included all the parks and stream corridors. After the 2009 Comprehensive Plan, changes to the zoning occurred to separate off all the recreational use and Open Space. There was never a change to the title of the land use designation or the zoning. In the most recent 2015 Comprehensive Plan, following a recommendation from Frederick County, a change was made to the land use designation to Institutional for this area that has public or non-profit uses in it. Therefore, there are four ordinances that need to be adopted to make the necessary title and definition changes. Ms. Cipperly advised that these ordinances need to be sent to the Planning Commission. She also advised that there needs to be an advertised public hearing which could be set for the February 1, 2016 Town Council meeting. Commissioner Ritz III requested that the definitions in Ordinance 16-04, 16-05 and 16-06 match. He stated as they are written the definitions are different in the respective ordinances. Ms. Cipperly advised that the Planning Commission should discuss this issue.

Motion: To send Ordinances, as modified, 15-03, 04, 05 and 06 to the Planning Commission for review.

Motion by Commissioner Ritz III second by Commissioner Blanchard

Vote: 4-0 in favor Commissioner Mellor absent

Unanimous consent to set public hearing to consider for final approval at the February 1, 2016 Town Council meeting.

Set Agenda Items for January 20, 2016 Town Meeting

3. For consideration and possible final vote – Nuisance ordinance
4. Meetings Policy related to number of monthly Town Council meetings

III Public Comments - none

TOWN AGENDA

January 20, 2016

IV SIGN APPROVED TEXT AMENDMENTS AND/OR RESOLUTIONSIV

Adjournment

With no further business, the January 4, 2016 Town Meeting was adjourned at 8:35 p.m.

Respectfully submitted,

Cathy Willets
Town Clerk

Approved:

ITEM D

POLICE REPORT – to be presented at meeting

ITEM E

TOWN MANAGER'S REPORT

Town Manager's Report
DECEMBER 2016
Prepared by David Haller

Streets:

- Staff repaired a few streetlights.
- Our contractor removed the concrete base of the Doughboy Memorial.
- Staff cleaned out the storm drain inlets on Federal Ave.
- Staff cleaned West Main St.

Water:

- Rainbow Lake is now at the spillway level.
- The roughing filters are being backwashed one time a day and the DE filters are being done once per week.
- Our wells are now on average 7.3' below their May 2011 levels.
- Water production and consumption. We produced and purchased an average of 287,641 GPD. We consumed an average of 241,980 GPD.

The difference is "Backwash Water" ... (15.8%). We purchased 371,250 gallons of water from MSM this month.

- 38.3% of this water came from wells.
- 4.2% of this water came from Mt. St. Mary's.
- 57.5% of this water came from Rainbow Lake.

Wastewater:

- The overland flow treatment system is shut down.
- We received about 4.9" of precipitation this month (the average is 3.3").
 - We have a precipitation **SURPLUS** of 14.3" over the last six months. The average precipitation for the period from June 1 thru December 31 is 22.1". We have received 36.4" for that period.
- Wastewater Treatment:
 - We treated an average of 637,000 GPD (consumed 241,980 GPD) which means that 38.0% of the wastewater treated this month was "wild water".
 - We had no spills of untreated sewerage in the month of September.
 - We exceeded the plant's design capacity on nine days in the month of December.

12/01	1,251,000 GPD	12/02	1,137,000 GPD	12/03	753,000 GPD
12/23	1,583,000 GPD	12/24	953,000 GPD	12/25	849,000 GPD
12/28	1,191,000 GPD	12/29	1,572,000 GPD	12/30	896,000 GPD

TOWN AGENDA

January 20, 2016

Trash: Trash pickup will remain Mondays for the remainder of the month of January.

Parks:

- Staff has winterized the restrooms in Community Park.
- Staff performed monthly checks in all parks.
- Staff has winterized all of the Town ballfields.

I Recently Attended the Following Meetings:

- 12/15 New Sewer plant review meeting
- 12/15 Met with staff related to a GIS system

PARKING ENFORCEMENT REPORT

Date: DECEMBER 2015

Overtime Parking: 39
Restricted Parking Zone: 1
24 Hour Consecutive Parking:
Parked in Crosswalk:
Parked on Sidewalk:
Parked Blocking Road:
Parked by Fire Hydrant:
Parked on Highway:
Failure to Park between Lines: 1
Other Violation: 1
Left Side Parking: 2
Street Sweeping: 7
Meter Money: \$1,128.17
Parking Permits:
Meter Bag Rental: \$6.00
Parking Ticket Money: \$ 945.00
Funerals: 1

Total: \$ 2079.17

Zoning/Code Enforcement Report**December 2015**

1. Attended a meeting with Planner regarding GIS system.
2. Provide energy project write up for the Town web site.
3. Follow up with Power Star regarding production schedule.
4. Provide WWTP as built plans for Dan and engineer.
5. Contact with Fox Engineering regarding water line extension at the Square.
6. Contact with RSV pools regarding pool RFP. Met with Town staff and noted adjustments to the contract.
7. Received final billing for 140 South Seton porch rehabilitation.
8. Updated PE and solar info. Met with Accountant, Town Manager and Mayor regarding billing.
9. Sent letter to Town Attorney regarding the issues discussed regarding 14 Federal Avenue regarding in-law suite.
10. Met with Town Manager and DPW about the Square waterline extension.
11. Contact PE about adding Ambulance Company to solar waterfall.
12. Met with the Mayor and Fire Museum officials regarding museums future.
13. Met with SHA, Mayor and Town Manager for a Square project update. Reviewed initial landscaping plans. Set meeting dates for January meetings and field walk.
14. Attended a tour of the WWTP for the Frederick County Sustainability Committee.
15. Release Dollar General letter of credit.
16. Finalized FEMA easement and had plans signed. Gave notice to turn on water line.
17. Tour town for Code Enforcement.

Zoning permits and/or zoning letters issued

Date	Address	Type	Fee
12-04-15	301 W Main	Roof replace	\$ 53
12-29-15	58 Federal Ave	Porch add.	\$35

ITEM F

TOWN PLANNER'S REPORT

Planner's Report

December 2015

Susan H. Cipperly, Town Planner

Meetings attended at town:

December 8 - Town Meeting

1. 2015 Comprehensive Plan.
 - Provided paper and CD copy of plan to Frederick County Planning.
 - Updated Town Board copies that were provided for that purpose.
2. Community Legacy Program.
 - Prepared and submitted quarterly report for FY2015 due 1/4/2016.
 - Prepared and submitted letter stating that the Town would supply \$10,000 in-kind support as part of the FY2016 application.
 - Phone interview by DHCD staff person as part of FY2014 final report process.
 - Continued coordination with DHCD regarding reimbursement requests, reports, and MHT reviews.
 - Processed grant agreements for projects approved by MHT.
 - Communicated by letter with applicant regarding partial MHT review approval.
 - Received initial information regarding FY2016 successful grant application.
3. Continued communications with GIS provider and Dave Haller regarding system setup & training. Agreement signed.
4. Supervised Code Enforcement and Zoning activity.
5. Presented proposed ordinance amendment regarding setbacks in residential zones to the town board. They referred it to the Planning Commission for review.
6. Met with John Clapp, Jerry Muir, and local property owner and attorney regarding allowed uses of a property.
7. Organizing computer and paper files.
8. Attended MDP Planners Roundtable meeting in Frederick 12/8/15, FredCo quarterly planners' meeting in Thurmont on 12/10/15.
9. Provided info for new website, including revised permit information and subdivision/site plan reviews.
10. Attended open house at 514 E Main for Creosote Effects new business location.
11. Drafted 4 text amendments to address changing the OS zoning title to Institutional, and revising pertinent text.

ITEM J

ADMINISTRATIVE BUSINESS

Re-appoint Keith Suerdieck to the Planning Commission

ITEM K

CONSENT AGENDA

No items

AGENDA ITEMS

ITEM 1

*For consideration and possible final approval – Nuisance
Ordinance*

AN ORDINANCE TO AMEND
TITLE 8
OF THE CODE OF EMMITSBURG
ENTITLED
HEALTH AND SAFETY

BE IT RESOLVED, ENACTED AND ORDAINED by the Mayor and Board of Commissioners of the Town of Emmitsburg, Maryland, pursuant to the authority granted to them by the laws of Maryland and the Charter of the Town of Emmitsburg, that Title 8 ; Section Health and Safety of the Emmitsburg Municipal Code, be amended

TITLE 8 - HEALTH AND SAFETY

Chapter 8.20 - Nuisances

Section 8.20.010 Definitions.

(a) As used in this Chapter:

1. Nuisance shall be defined as:

- i. Property to which police or other law enforcement agencies have responded to complaints or calls for service 3 or more times within any 12 consecutive month period and that:
 - a. Tends to negatively impact the well-being of other persons and disturbs the quality of life of other persons; and
 - b. Is injurious to public health, safety, or welfare, or obstructs the reasonable use of property; or
- ii. Property used for the storage or concealment of illegal weapons, stolen property, contraband, or
- iii. Property where the tenant, owner, or other occupant has been convicted of violations of [§ 10-201](#) or [§ 10-202 of the Criminal Law Article](#), Annotated Code of Maryland for conduct occurring on, in, or in relation to the property; or
- iv. Property where the tenant, owner, or other occupant has been convicted of violations of any criminal law occurring

on, in, or in relation to the property and is related to the activities of a criminal gang as defined in [§ 9-801 of the Criminal Law Article](#), Annotated Code of Maryland

2. Occupant shall mean any person occupying premises, whether or not a party to a lease.
3. Owner shall mean the person or entity in whose name title to property is held as reflected in the land records for Frederick County or the records of the State Department of Assessments and Taxation.
4. Tenant shall mean any tenant or lessee, whether under a written or oral lease.

The provisions of this Chapter shall apply only to property used primarily for residential purposes which shall include houses, townhouses, condominiums, apartments, hotels and motels.

Section 8.20.020 Notice of Nuisance

A. Upon receiving notification that the police or other law enforcement agencies responded to a noise and/or nuisance complaint, the Mayor and/or Town Manager shall review the nature of the complaint as well as any other circumstances to determine the validity of said complaint. If determined to be a valid complaint, the property will be flagged for a violation and the Mayor and/or Town Manager shall notify in writing the tenant, occupant and/or property owner of the complaint. The notice shall specify the nature, date and time of the activity giving rise to the complaint, and the address or other location of the property involved in the complaint.

B. After police or other law enforcement agencies have responded to complaints or calls for service to a property 3 times within any 12 month period, the Mayor and/or Town Manager shall notify the owner and the tenant and/or occupant of the property in writing of the dates, times and nature of the complaints or service calls, and inform them that an additional service call within the 12 month period shall constitute a nuisance after which legal action may be taken as permitted by this Chapter.

C. Upon the existence or occurrence of a nuisance on a property, the Mayor and/or Town Manager shall notify the tenant, occupant and/or owner of the property in writing that a nuisance exists or occurred and that legal action may be taken if the nuisance is not abated. The notice shall specify the nature of the alleged nuisance, the date and time of day the nuisance was first discovered, the address or other location of the property where the nuisance exists or occurred, and, if the

Ordinance Series 2016
Ord. No. 16-07

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nuisance is based upon repeated complaints or calls for service to the property, the dates and nature of each service call.

D. The notice shall inform the tenant, occupant and/or owner that the nuisance is to be abated within thirty (30) days of the receipt of the notice. If the public health, safety and/or welfare require an abatement of the nuisance in a shorter period of time, the notice may require such shorter period of time as may be required to protect public health, safety and/or welfare. The Mayor and/or Town Manager may authorize an extension of time to abate the nuisance where the tenant, occupant and/or owner are proceeding in good faith to abate the nuisance but, because of the nature of the nuisance, additional time is needed to complete the abatement.

E. The notice shall be delivered to the tenant, occupant and/or owner in accordance with Rule 2-121 of the Maryland Rules of Procedure, and a copy shall be posted in a conspicuous location on the property.

Section 8.20.030 Action to Abate Nuisance

When a nuisance which has not been abated within the time period required or, when the nuisance is based upon the number of complaints or service calls within 12 months of the first call or complaint, the Town Attorney may bring an action to abate the nuisance under this Chapter and under Section [4-401 of the Courts and Judicial Proceedings Article](#), Annotated Code of Maryland. The Town Attorney may also seek injunctive and other equitable relief in the District Court of Maryland for Frederick County for abatement of a nuisance upon showing that the notice requirements under Section 8.20.020 have been satisfied and that the nuisance has not been abated. The existence or occurrences of a nuisance shall also constitute a municipal infraction and may be enforced pursuant to Local Government Article, Title 6 of the Annotated Code of Maryland and Chapter 1.08 of the Emmitsburg Municipal Code.

Section 8.20.040 Remedies as against Landlords and Tenants - Orders to vacate property

A. Notwithstanding any other provision of law, and in addition to or as a component of any remedy ordered under Section 8.20.030, the court, after a hearing, may order a tenant who knew or should have known of the existence of the nuisance to vacate the property within 72 hours. If the owner and tenant are both parties to the action, the court, after a hearing, may grant a judgment of restitution or the possession of rental property to the owner, and the court shall immediately issue its warrant to the sheriff or constable commanding execution of the warrant within 5 days after issuance of the warrant.

B. In addition to or as a part of any injunction, restraining order, or other relief ordered, the court may order the owner of the property to submit for

court approval a plan of correction to ensure, to the extent reasonably possible, that the property will not again be used for a nuisance if the owner is a party to the action and the owner knew or should have known of the existence of the nuisance.

Section 8.20.050 Legal rights or remedies otherwise available

A. This section may not be construed to abrogate any equitable or legal right or remedy otherwise available under the law to abate a nuisance.

B. Provisions of Title 8, Real Property Article, Annotated Code of Maryland applicable to actions between a landlord and a tenant are not applicable to actions brought against a landlord or a tenant under this section.

BE IT FURTHER RESOLVED, ENACTED AND ORDAINED that this Ordinance shall take effect on the date on which the Mayor approves the Ordinance after passing by the Board of Commissioners or on the date on which the Board of Commissioners pass the Ordinance over the veto of the Mayor.

PASSED this _____ day of _____, 2016 by a vote of _____ for, _____ against, _____ absent, and _____ abstain.

ATTEST:
COMMISSIONERS

EMMITSBURG BOARD OF

By: _____
Cathy Willets, Town Clerk

Timothy O'Donnell, President

MAYOR

_____ APPROVED _____ VETOED

this _____ day of _____, 2016.

Donald N. Briggs, Mayor

I hereby certify that the foregoing Ordinance has been posted as required by Chapter 2.04 of the Emmitsburg Municipal Code.

Date: _____

Cathy Willets, Town Clerk

AGENDA ITEMS

ITEM 2

Meetings Policy related to the number of monthly Town Council meetings

Policy Series – 2016
P16-01

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TOWN OF EMMITSBURG
TOWN COUNCIL MEETING SCHEDULE

The Town of Emmitsburg will adopt the following schedule, in keeping with the Emmitsburg Charter Section II Board of Commissioners, for yearly Town Council meetings:

The Emmitsburg Board of Commissioners will hold one meeting a month on the first Monday of every month beginning at 7:30pm. Two meetings a month may be held as necessary and these meetings will be held on the third Monday of each month at 7:30pm. There may be a need for additional Town Council meetings. These meetings may be held at the request of two Commissioners or the Mayor.

BE IT FURTHER RESOLVED, ENACTED AND ORDAINED, that this policy shall take effect on _____ day of _____, 2016.

PASSED THIS _____ DAY OF _____, 2016.

ATTEST:

EMMITSBURG BOARD OF COMMISSIONERS

Cathy Willets, Town Clerk

Tim O'Donnell, President

_____ APPROVED _____ VETOED

this _____ day of _____, 2016

Donald N. Briggs, Mayor

IV) SET AGENDA ITEMS FOR FEBRUARY 1, 2016 TOWN MEETING

1.

2.

3.

4.

5.

6.

**V) SIGN APPROVED TEXT AMENDMENTS AND/OR
RESOLUTIONS**